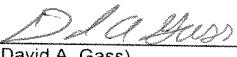


I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: January 8, 2009

Signature:   
(David A. Gass)

Docket No.: 28079/41333  
(PATENT)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Kenneth A. Barton et al.

Application No.: 07/827,906

Confirmation No.: 3375

Filed: January 30, 1992

Art Unit: 1638

For: IMPROVED EXPRESSION OF GENES IN  
PLANTS

Examiner: A. R. Kubelik

### INFORMATION DISCLOSURE STATEMENT (IDS)

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 CFR 1.56, 1.97 and 1.98, the Applicants request that the Patent and Trademark Office consider the references listed on the attached PTO/SB/08 during the prosecution of this application, and make the references of record to appear among the "References Cited" on any eventual patent.

Generally speaking, the documents cited herein were previously made of record in the Fischhoff family of applications that was involved in an interference with this family of applications.

Documents C207-C217 in this IDS were identified by a third party as purportedly "very relevant information" in the context of Fischhoff et al., U.S. Patent Application Serial No. 10/102,469. Specifically, the documents were sent to the undersigned attorney by an attorney, George Pazuniak, who is counsel for one of Applicant Monsanto's competitors in the marketplace. (See Document C207, copy of Pazuniak's letter) The attorney who sent the documents was apparently monitoring prosecution of the '469 application and transmitted the documents to the undersigned attorney after the PTO had issued a notice of allowance in the '469 application (when the '469 application was no longer in active prosecution).

In accordance with 37 CFR 1.98(a)(2)(ii), Applicant has not submitted copies of U.S. patents and U.S. patent applications. Applicant submits herewith copies of foreign patents and non-patent literature in accordance with 37 CFR 1.98(a)(2).

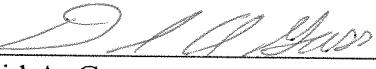
In accordance with 37 CFR 1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information as defined in 37 CFR 1.56(a) exists. In accordance with 37 CFR 1.97(h), the filing of this Information Disclosure Statement shall not be construed to be an admission that any patent, publication or other information referred to therein is "prior art" for this invention.

It is submitted that the Information Disclosure Statement is in compliance with 37 CFR 1.98 and the Examiner is respectfully requested to consider the listed references.

This Information Disclosure Statement is filed more than three months after the U.S. filing date, AND after the mailing date of the first Office Action on the merits, whichever occurs first, but before the mailing date of a Final Office Action or Notice of Allowance (37 CFR 1.97(c)). Our check in the amount of \$180.00 covering the fee set forth in 37 CFR 1.17(p) is enclosed. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 13-2855, under Order No. 28079/41333.

Dated: January 8, 2009

Respectfully submitted,

By   
\_\_\_\_\_  
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